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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
GARDEN CITY BOXING CLUB, INC.,

Plaintiff,

-against-

RAFAEL PEREZ and EL VITALINA  
RESTAURANT,

Defendants.  
-----x

**MEMORANDUM & ORDER**

05-CV-3713 (FB)(CLP)

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
U.S. COURT HOUSE, E.D.N.Y.

★ JAN 24 2006 ★

BROOKLYN OFFICE

*Appearances:*

*For the Plaintiff:*

JULIE COHEN LONSTEIN, ESQ.

Lonstein Law Office, P.C.

1 Terrace Hill, Box 351

Ellenville, NY 12428

**BLOCK, Senior District Judge:**

On February 24, 2006, Magistrate Judge Pollak issued a Report and Recommendation ("R & R") on the amount of damages to which plaintiff was entitled. The R & R stated that "[a]ny objections to this [R & R] must be filed . . . within ten (10) days of receipt of this report[,] and that "[f]ailure to file objections within the specified time waives the right to appeal the District Court's order." See R & R at 18; see also 28 U.S.C. § 636(b)(1). None of the parties has objected to the R & R.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to

a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."'). Plaintiff served a copy of the R & R on the defendants on July 11, 2006, via regular mail, thereby providing them with notice of the R&R and informing them of their rights to object and the consequences of not so doing. *See* Docket No. 14.

The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error in ruling against the defaulting party. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Here, nothing on the face of the R & R suggests plain error. Accordingly, the Court adopts the R & R without *de novo* review.

**SO ORDERED.**

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FREDERIC BLOCK  
United States Senior District Judge

Brooklyn, New York  
August 1, 2006